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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,078	11/05/2003	Volker Kamm	038724.52864US	6297

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

EXAMINER

CHAUDHRY, SAEED T

ART UNIT PAPER NUMBER

1746

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/701,078	Applicant(s) KAMM, VOLKER	
	Examiner Saeed T. Chaudhry	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-31 is/are pending in the application.
- 4a) Of the above claim(s) 27-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-27, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's amendments and remarks filed July 6, 2005 have been acknowledged by the examiner and entered. Claims 1-4 and 6-31 are pending in this application for consideration. Of the above claims 27-29 has been withdrawn from consideration.

Claim Rejections - 35 USC § 112

Claims 30-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 is incomplete and confusing because it is not clear how an interior space and a conveyor belt are attached to the claimed apparatus of claim 1. How the cleaning unit is configured to move through the conveyor.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) he has abandoned the invention.

(d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(f) he did not himself invent the subject matter sought to be patented.

(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

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Claims 1-3, 6-7, 9, 14, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hallet et al.

Hallet et al (EP-0958,849) disclose an apparatus for cleaning an installation (100) having at least one cleaning unit (201) configured to move within the installation (100) to be cleaned; flexible connection (206) configured to supply a cleaning agent to the cleaning unit and to move with a movement of the cleaning unit (201). The lamellar elements (105) of settler (100) are cleaned by compressed air (cleaning agent) from a row of nozzles (cleaning unit, 201) which pass beneath the lamellae. Nozzles are mounted on chariot which moves at a speed of 1-100 cm/sec. The cleaning unit is a conveyance system which move back and forth beneath the tubes and capable of carrying as a carriage on a guide system (202, 204). The cleaning unit is capable of parking in the installation. The flexible tube (206) is coiled on a roller (207) and connected to a cleaning source (208) for cleaning agent. Hallet et al discloses all the limitations as claimed herein. Therefore, claims are anticipated by Hallet et al.

It should be noted that no patentable weight has been given to the preamble/intended use in that the body of the claim fails to recite any limitations that give life and meaning to the preamble/intended use. See MPEP 2111.02.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hallet et al in view of Horridge.

Hallet et al were discussed supra. However, the reference fails to disclose that nozzle is configured to be driven in a rotational movement.

Horridge (6,402,854) disclose a nozzle (10) which is configured to be driven in a rotational movement to facilitate cleaning of all areas of the inside surface (see col. 2, lines 15-17).

It would have been obvious at the time applicant invented the claimed apparatus to include a rotatable nozzle as disclosed by Horridge for the purpose of cleaning all the inside surfaces in one pass.

Claims 8, 10-11, 15, and 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hallet in view of Vowles.

Hallet were discussed supra. However, the reference fails to disclose driving gear being connected to the cleaning unit with a power transmission element, a roller connected to the driving gear.

Vowles (5,265,671) disclose an apparatus for cleaning a bore of a tube by projecting a flexible conduit. The apparatus comprising a drum (1), (roller) with deep spiral grooves (2) for

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accommodation of a lance. A shaft (9) is made coaxial with the drum extending from one of its ends through its axial length of the drum beyond its other end. Shaft (9) is rotatably supported in threaded bearing (17). Part of the shaft extending beyond the drum is made hollow to accommodate ducting, which is connected to the outer end of the shaft by suitable swivel means (20) (see col. 2, lines 31-65). Drive motor (14) is mounted upon the outer face of end plate with its output shaft connected to shaft (13). As the drum rotates, co-operation of screw thread (10) on shaft (9) and screwed boss (17) causes the drum to axially displaced at a rate which continuously positions the point at which lance leaves deep spiral grooves of the drum adjacent the bore of fairlead (22) (see col. 3, line 65 through col. 4, lines 3).

It would have been obvious at the time applicant invented the claimed apparatus to include a power transmission element a driving gear and roller drum as disclosed by Vowles into the apparatus of Hallet et al for the purpose of controlling the hose movement through the installation since with the movement of the drum would give better and efficient control of the hose. Hose made of plastic material would have been matter of choice since plastic hose is produced cheaper than the other materials. The shaft is rotatably supported in threaded screw bearing (17). Therefore, one of ordinary skill in the art would include bearings which would move the roller in axial direction. The references did not disclose trapezoidal thread or multiplex trapezoidal thread. Vowles discloses to use screw thread (10) and screwed boss (17), which causes to axially displace the drum. One of ordinary skill in the art would replace a trapezoidal thread or multiplex trapezoidal thread with a screw thread since all would have given the same result and it is matter of choice to use one the thread. Further, one of ordinary skill in the art would positioned the driving gear outside of the installation as disclosed by Hallet to prevent corrosion on driving gear with cleaning agents. The references fails to disclose a guide rail. One of ordinary skill in the art would use a guide rail instead of a cable for guiding the cleaning unit since guide rail are well known in the art for guiding on a guide rail.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hallet in view of Vowles as applied to claim 10 above, and further in view of Smith.

Smith (5,402,809) discloses conveyor assembly 40 the assembly 40 is seen to be formed of a continuous stainless steel chain 310 which is positioned in driven relationship about main sprocket 232, and which extends through entrance opening 66 and exit opening 68 to be wound about secondary sprocket (see col. 11, lines 31-35).

It would have been obvious at the time applicant invented the claimed apparatus to include a stainless steel chain as disclosed by Smith into the apparatus of Hallet for the purpose of increased durability of the transmission element.

Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hallet in view of Niederer, Jr. et al.

Hallet et al were discussed supra. However, the reference fails to disclose a conveyor belt for transporting foodstuffs or pharmaceuticals.

Niederer, Jr. et al (3,155,102) discloses a conveyor belt for transporting and washing foodstuffs (see Figs. 1 and 2).

It is well known in the art to transport and clean foodstuffs on a conveyor belt as disclosed by Niederer, Jr. et al. Therefore, it would have been obvious at the time applicant invented the claimed apparatus to combine nozzle mounted on chariot as disclosed by Hallet into the apparatus of Niederer, Jr. et al to clean the conveyor and the interior of the installation. The entry system for a refrigerating agent is an intended use of the apparatus, which has not give any weight for patentability.

Response to Applicnat's Arguments

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Applicant argued that Hallet reference relates to water treatment and can't anticipate the present claims which are directed to installations and devices for use in the production or processing of foodstuffs or pharmaceuticals. The claims are limited in both the preamble and the language which indicates that the cleaning unit is adapted to clean essentially the whole inside surface of the installation where the production or processing of foodstuffs or pharmaceuticals takes place.

This argument is not persuasive because installation for foodstuffs and pharmaceuticals are intended use, which do not distinguished from the cited reference apparatus. Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990).

Applicant argued that Hallet does not teach a parked position in the interior of the installation, much less a parked position configured so that the cleaning unit may be parked during production or processing of foodstuffs or pharmaceuticals.

This argument is not persuasive because the cleaning unit of Hallet may be parked within the settler during the processing and the claimed language does not structurally distinguished the parked position.

Applicant argued that Hallet teaches a cleaning device that is useful for cleaning only a small part, the lamellae, and not the inside surface of the settler. The presently claimed invention, on the other hand, relates to a device useful for cleaning essentially the whole inside surface of the installation.

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This argument is not persuasive because Hallet apparatus is capable of cleaning all the surfaces inside of the settler. The applicant fail to explain, which part of the claimed apparatus is different than the Hallet et al apparatus.

The applicant argued that the present record includes no explanation of why one of skill in the art would be motivated to try to combine the two references. As explained above, Hallet is directed to cleaning lamellar elements, not inside surfaces.

This argument is unpersuasive because it is well known in the art to utilize a nozzle tip having a rotational movement by a flow of the cleaning fluid as disclosed by Horridge. One of ordinary skill in the art would substitute rotating nozzle with the stationary nozzle of Hallet to cover all the surfaces of the installation and lamellar element. By substituting the nozzle would not destroy the function, instead would increase the rotating nozzle effect by cleaning both the surrounding surfaces and the lamellar element.

Applicant's arguments filed July 6, 2005 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.

Saeed T. Chaudhry
Patent Examiner

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Michael Barr', is written over a large, stylized oval shape.